

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

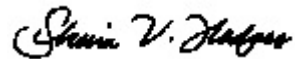
Ronald Brunson,)	C/A No.: 3:11-2013-JFA-SVH
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
John M. McHugh, Secretary of the)	
Army,)	
)	
Defendant.)	
_____)	

This matter comes before the court pursuant to Defendant's motion for summary judgment [Entry #7]. Plaintiff filed a response to the summary judgment motion arguing, *inter alia*, that he should be allowed to conduct discovery to defend against the motion. [Entry #8]. In his reply, Defendant argues that Plaintiff has failed to support his argument with an affidavit specifying the reasons he needs discovery pursuant to Fed. R. Civ. P. 56(d) and has not shown that further discovery is necessary. [Entry #15].

Rule 56(d) provides that the court may deny or continue a motion for summary judgment "[s]hould it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition. . . ." Fed. R. Civ. P. 56(d). The affidavit should "particularly specif[y] legitimate needs for further discovery." *Nguyen v. CNA Corp.*, 44 F.3d 234, 242 (4th Cir. 1995). Although the 56(d) affidavit need not contain evidentiary facts, it must explain why facts precluding summary judgment cannot be presented. 10A Wright, Miller & Kane, *Federal Practice & Procedure*, § 2740 at 530 (1983).

In light of the early procedural posture of this case, Plaintiff is granted until March 14, 2012 to submit a Rule 56(d) affidavit identifying with specificity the alleged facts not currently supported by evidence and whether discovery is likely to reveal evidence supporting those facts. If Plaintiff fails to provide a sufficient Rule 56(d) affidavit, the court will rule on the pending summary judgment motion according to the briefing on the docket.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Shiva V. Hodges". The signature is written in a cursive, flowing style.

February 29, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge